



# United States Copyright Claims Board

Eckart Klobe

CLAIMANT

v.

Pectushealing

RESPONDENT

## ORDER TO SHOW CAUSE

On November 17, 2022, Eckart Klobe purported to file a copyright infringement claim. The Copyright Claims Board (Board) issued an Order to Amend Noncompliant Claim on November 22, 2022. The order details the Board's finding that the claim clearly involves solely a patent dispute and not a permissible copyright claim that the Board can hear. The claim is the third such proceeding filed by the claimant. The Board orders the claimant to show cause why filing such a claim after having been advised four times in the two previous proceedings that the claims did not comply with the requirements of the CASE Act and related regulations does not constitute bad-faith conduct under [37 C.F.R. § 232.3](#). Claims involving patent disputes are not subject to determination by the Copyright Claims Board. 17 U.S.C. § 1506(c)(1)-(3).

The claimant has submitted claims in three different proceedings ([22-CCB-0106](#), [22-CCB-0110](#), and [22-CCB-0246](#)), all of them apparently against the same respondent and all of them merely checking the box alleging copyright infringement, but actually alleging patent disputes regarding the same patented medical device. The claims identified patent-related U.S. Patent and Trademark Office (USPTO) filings even though the claim form asks for a U.S. copyright registration number. In each of the prior proceedings, the Board has issued Orders to Amend Noncompliant Claims and the claimant has responded by filing amended claims that were virtually identical to the original claims but included additional (but irrelevant) documentation. In each of those proceedings, the Board issued second Orders to Amend Noncompliant Claims. In the proceeding now before the Board, claimant has submitted an identical initial claim against the same respondent.

In *Klobe v. Naumov* (22-CCB-0106) ("*Naumov*"), the claimant filed a claim on August 22, 2022 naming Igor Naumov (alias Pectushealing) as the respondent. The claim alleged that the respondent's "[w]ebsite sells my patented medical device without my consent, misleading people about treatment, and endangering the health of patients." Where the CCB claim form asks, "has the work been registered by the Copyright Office," the claim answered "yes," and for the copyright registration number the claim provided the number "US20050119700." One additional document was uploaded with the claim: a USPTO patent application publication with the publication number US20050119700, regarding a patent application for a "Suction Cup for Non-Surgical Correction of the Form and/or Functionality of the Chest." Where the claim form asks for the copyright "Registration number," the claimant provided that patent publication number.

The Board issued an [Order to Amend Noncompliant Claim](#) on September 29, 2022. The order noted that although the claimant had checked a box in the claim form stating that the claim was for copyright infringement, he failed to include the required copyright registration information and instead provided information relating to a patent application. It directed the claimant to multiple Copyright Office resources that further explain the kinds of claims that the Board can hear. It stated that the claimant should only file an amended claim if he believed he actually had a claim under copyright law that can be heard by the CCB, and only if he had received a copyright registration or filed an application to register his work with the Copyright Office prior to filing the claim.

On October 29, 2022, the claimant filed an amended claim that was, in all respects but one, identical to the original claim. Like the original claim, it included the uploaded USPTO patent application publication. However, the claimant also uploaded an additional document: a declaration of priority (in German) for the filing of a patent application based on a German patent, along with additional documents in German relating to the German patent or patent application.

On November 8, 2022, the Board issued a [Second Order to Amend Noncompliant Claim](#) that again described the impermissibility of the claim and highlighted the specific allegations that lead to the Board's finding of noncompliance under the applicable laws and regulations. The order noted that the Board can resolve only certain kinds of copyright claims but the claimant was asserting a patent claim, that he had provided a patent publication number rather than a copyright registration number, and that he had not made factual allegations to support any elements of a claim of copyright infringement.

Similarly, in *Klobe v. Pectushealing* (22-CCB-0110) ("*Pectushealing I*"), the claimant filed a claim on August 23, 2022 that was identical in every almost every respect to the initial claim filed in *Naumov*. The only differences between the two claims were that (1) the claim in *Naumov* named Igor Naumov as the respondent (although it also stated that Naumov's alias was "Pectushealing"), while the claim in *Pectushealing I* named Pectushealing as the respondent, and (2) the putative copyright registration number (but not actually a copyright registration number) was "US200500119700A1" rather than "US20050119700." On September 29, 2022, the Board issued an [Order to Amend Noncompliant Claim](#) similar in nature to the order issued on the same day in *Naumov*. On October 29, 2022, the claimant filed an amended claim that was (apart from the two technical differences noted above) identical to the amended claim in *Naumov*. On November 8, 2022, the Board issued a Second Order to Amend Noncompliant Claim that was similar in nature to the second order in *Naumov*.

On November 17, 2022, eight days after the Second Order was issued in *Pectushealing I*, the claimant filed this claim, *Klobe v. Pectushealing* (22-CCB-0246) ("*Pectushealing II*"). The claim differed only in very minor and inconsequential respects from the initial claims in *Naumov* and *Pectushealing I*. On November 22, 2022, the Board issued an [Order to Amend Noncompliant Claim](#) similar in nature to the orders previously issued in *Naumov* and *Pectushealing I*.

The Board orders the claimant Eckart Klobe to file a response by **December 12, 2022** explaining why filing claim 22-CCB-0246 does not constitute bad-faith conduct, as defined in the Board's regulations: "Bad-faith conduct occurs when a party pursues a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact. Such conduct includes any actions taken in support of a claim, counterclaim, or defense and may occur at any point during a proceeding before the Board, including before a proceeding becomes an active proceeding." [37 C.F.R. § 220.1\(c\)](#). The claimant should file his response on eCCB. The response may not exceed 10,000 characters in length, not including any relevant documents filed as attachments in support of the response.

To submit the response, log into your eCCB account and take the following steps.

1. From your dashboard, you will see your claim under "Ongoing copyright proceedings."
2. Click the "File in existing case" button and select this proceeding from the drop-down menu of active proceedings.
3. Select "Response to an Order to Show Cause Regarding Bad-Faith Conduct" from the drop-down menu of document types.
4. Enter your response.
5. To add any relevant documents, click the "Add attachment" button and upload the documents that pertain to this Order to Show Cause.

Copyright Claims Board  
**November 28, 2022**